

REMARKS

Claims 1-23 are pending in the application and have been rejected.

Claim Rejections – 35 USC § 112

Claims 21-23 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Applicants disagree with the Examiner's assertion. Paragraph [0014] provides sufficient support for claims 21-23. The application states:

In other embodiment, the weight percent of the hydrogenated poultry fat varies during the aging and growth of the animal. For example, in one embodiment, the amount of hydrogenated poultry fat added to the animal feed decreases as the animal nears a final market weight. In one embodiment, for example, the animal feed includes 3%, 2%, and then 1% hydrogenated fat by weight over the final three phases of the finishing diet.

Thus, not only is the claimed decrease in hydrogenated fat disclosed, it is disclosed that in one example it is decreased three times 3%, 2%, 1%. Applicants' claims 21-23 are in fact a narrower variation of that which is disclosed and therefore clearly supported. Applicants respectfully request withdrawal of the objection.

Claim Rejections – 35 USC § 103

Claims 1-23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Livingston (U.S. Patent No. 6,033,716) and Johnston (U.S. Patent No. 5,498,434) in view of admitted prior art in the specification at page 1, paragraph [002] and Cook (U.S. Patent No. 5,851,572) and further in view of Evans et al. (U.S. Patent No. 5,427,802) and Schaub (U.S. Patent No. 5,215,766).

Claim 1 is directed to a method of raising finishing swine and producing pork belly product. The method comprises, in part, "feeding a daily feed ration to a pig, the daily ration comprising 0.5 to less than about 5 percent by weight hydrogenated poultry fat."

Claim 9 is directed to a method of feeding an animal. The method similarly comprises, in part, "feeding the animal a daily feed ration comprising about 0.5 to less than about 5 percent by weight hydrogenated poultry fat."

Claim 16 is directed to a feed ration for feeding finishing swine. The feed ration comprises, in part, “about 0.5 to less than about 5 percent by weight hydrogenated poultry fat.”

None of the references – Livingston, Johnston, Cook, Evans, or Schaub, – alone or in any proper combination disclose, teach, or suggest the invention recited in Claims 1, 9, or 16. In particular, a feed ration comprising “about 0.5 to less than about 5 percent by weight hydrogenated poultry fat,” as recited in claims 1, 9, and 16 is not disclosed, taught, or suggested by the references. In fact the Examiner admits that the references do not teach this element as recited in claims 1, 9, and 16 when the Examiner states “applicant states that none of the references shows ‘0.5 to 5 percent by weight hydrogenated poultry fat.’ This in fact is true.” Office Action dated 11/28/2007, pg. 9, lines 7-8. To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974).

The Examiner asserts that Livingston teaches animal feeds that contain poultry fat. The Examiner cites only to the Abstract of Livingston to support this assertion. The Applicants respectfully submit that the Examiner takes the Abstract of Livingston out of context of the disclosure of Livingston as a whole. Livingston discloses an animal feed comprising house litter and wastewater sludges:

The instant invention overcomes the above problems by providing a nutritional animal feed and a process for making the animal feed comprising mixing growing house litter with wastewater sludges and drying the mixture to remove water from the mixture.

In more detail, the house litter comprises a component selected from the group consisting of animal (as used hereinafter, the term “animal” includes poultry) excrement, feathers, poultry feed, bedding material, and mixtures thereof. Preferably, the litter comprises a component consisting of poultry manure, poultry feed, and mixtures thereof. The wastewater sludges utilized in the invention include a component selected from the group consisting off at [sic], blood serum, bones, skin, viscera, and mixtures thereof. Preferably, the sludges comprise a component selected from the group consisting of poultry fat, poultry blood serum, poultry bones, poultry skin, poultry viscera, and mixtures thereof, and more preferably, the sludges comprise poultry fat. Livingston, Col. 1, ll. 59-Col. 2, ll. 10.

Because the claim elements and a motivation to combine the references are not explicitly disclosed, taught or suggested by the references, Applicants respectfully request the Examiner to

identify explicitly an apparent reason to combine the elements that would have been apparent to one of ordinary skill in the art at the time of the invention.

While the sludges of Livingston may include poultry fat, Livingston does not teach a feed comprising poultry fat as recited in independent claims 1, 9, and 16. As the Examiner points out, Livingston does not teach a feed ration comprising hydrogenated poultry fat. It is not clear, even if it were desirable, how the poultry fat used in the animal feed of Livingston could be hydrogenated. Livingston combines house litter with wastewater sludges, the wastewater sludges *may* comprise poultry fat. It is not obvious in any way that the poultry fat of the wastewater sludge could be hydrogenated. Therefore, Livingston does not disclose, teach, or suggest a feed ration comprising about 0.5 to less than about 5 percent by weight hydrogenated poultry fat as recited in claims 1, 9, and 16. Accordingly, there is no apparent reason that the teachings of Livingston would be applicable to the claims at issue.

Similarly, the Examiner asserts that Johnston discloses fat containing animal feeds and further teaches the use of poultry fat. Johnston discloses animal feed and, more particularly, pet food. Johnston, Col. 2, ll. 13-14. Generally, Johnston discloses adding a combination of at least two to three particular natural antioxidants with animal-fat-containing animal feed to increase the shelf life of the animal feed. Johnston, Col. 2, ll. 19-23. The antioxidants are combined with, for example, “refined and bleached poultry (inedible) fat” or “other inedible animal fats.” Johnston, Col. 3, ll. 1-2. The amount of antioxidants is based on proportions that are based on total weight of antioxidant and inedible fat to be protected. Johnston, Col. 3, ll. 1-24. Johnston does not disclose, teach, or suggest a feed ration comprising hydrogenated poultry fat as recited in claims 1, 9, and 16. As with Livingston, there is no apparent reason that the teaching of poultry fat in animal food would be applicable to the case of adding specifically hydrogenated poultry fat to the feed.

The Examiner asserts broadly that Schaub teaches hydrogenating fats. Schaub fails to remedy the deficiencies of Livingston and Johnston. In fact, Schaub teaches *away* from the present claims. Schaub teaches fats fed to animals and, more particularly, fats from readily available sources such as lard, tallow, fish, oils, and the like. Schaub specifically teaches hydrogenating fats to provide feeding fats in large quantities:

The purpose of the present invention is to offer the possibility of feeding fat in large quantities, i.e., in excess of about 5%, in a form which does not

cause disorders of the digestive process even of ruminants, and which can nevertheless be completely resorbed. Schaub, Col. 1, ll. 49-53 (*emphasis ours*).

First, the Examiner should note that the “35” in claim 1 has been clarified to be the iodine value not a hydrogenated poultry fat percentage as assumed previously by the Examiner. The Examiner agrees that Schaub teaches feeding fat in large quantities, in excess of about 5% whereas what is claimed is about 0.5% to less than about 5%. The Schaub reference provides the need to provide large quantities of fat which is contrary to the recited invention of Applicants’ claims. Again, there is no apparent reason to apply the teachings of Schaub to Applicants’ claimed invention. In fact one would be motivated not to apply the teachings of Schaub because Schaub teaches feeding fat in large quantities in excess of the amounts claimed.

Cook teaches that the only method previously known to assure a firm fat was to feed animals fats or oils high in saturated fats. The method of Cook specifically comprises feeding meat animals a conjugated linoleic acid, which is an unsaturated fat, which counteracts the adverse effects of the increased unsaturated fat in the diet of meat animals and results in the production of meat of improved quality having a firmer fat. Cook, Col. 1, ll. 45-50. Cook specifically teaches a method comprising feeding animals an unsaturated fat. Cook does not teach a feed ration comprising poultry fat. More specifically, Cook does not disclose, teach, or suggest a feed ration comprising hydrogenated poultry fat. Therefore, Cook does not teach a feed ration comprising about 0.5 to less than about 5 percent by weight hydrogenated poultry fat. Accordingly, Applicants can not discern that there is any apparent reason why a person of ordinary skill in the art would have combined Cook with the other references as Cook is substantially irrelevant to what is claimed.

The Examiner next cites to Evans. Evans teaches a feed supplement which includes the use of highly saturated fats. Evans specifically teaches that the selected fatty acids should either have an iodine value, or be saturated to the point that the iodine value thereof is, between 5 and 35, and preferably in the range of 16-20. Evans further teaches that certain saturated or highly saturated animal fats such as tallow, lard, and grease are relatively low in value, easier to saturate or hydrogenate, are more readily available, have lower costs than higher iodine vegetable oils, and are therefore more economical in achieving the desired iodine value. Thus, Evans teaches the use of tallow, lard, or grease having iodine values between 5 and 35 in feed supplements.

Each of the independent Claims 1, 9, and 16 recite hydrogenated poultry fat having an iodine value of greater than 35. Given Evans' specific teaching of a range of iodine values between 5 and 35 and the assertion therein that it was a surprising discovery that the addition of highly saturated fats (IV=5-35) to the diet produces significant weight gain rate advantages, it would not be obvious to modify the invention of Evans to a different range of iodine values. Indeed, such modification would be *against* the specific teaching of Evans.

Evans further does not disclose, teach, or suggest the use of poultry fat, and more particular hydrogenated poultry fat. Therefore, Evans does not teach a feed ration comprising about 0.5 to less than about 5 percent by weight hydrogenated poultry fat as recited in Applicants' independent claims. Again, as Evans teaches IV at clearly different levels than Applicants' claim and does not teach hydrogenated poultry fat, there is no reason why a person of ordinary skill in the art would have combined the Evans reference with the other cited references.

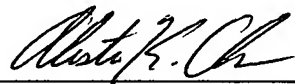
Accordingly, none of the references – Livingston, Johnston, Cook, Evans, or Schaub, -- alone or in any proper combination, disclose, teach, or suggest a daily feed ration comprising about 0.5 to less than about 5 percent by weight hydrogenated poultry fat, and therefore, the invention of Claims 1, 9, or 16 and their respective dependent claims are patentable. Claims 1-23 are not made obvious by Livingston, Johnston, Cook, Evans, or Schaub, alone or in any proper combination.

Conclusion

In view of the above remarks and amendments, it is respectfully submitted that the foregoing is fully responsive to the outstanding Office Action. Early favorable consideration of the above application is earnestly solicited. In the event that a phone conference between the Examiner and the Applicant's undersigned attorney would help resolve any issues in the application, the Examiner is invited to contact said attorney at (651) 275-9833.

Respectfully Submitted,

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By: 
Alistair K. Chan, Reg. No. 44,603

Kagan Binder, PLLC
Suite 200, Maple Island Building
221 Main Street North
Stillwater, MN 55082
Facsimile: 651-351-2954